United Nations S/AC.44/2007/5

Security Council

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Security Council Committee established pursuant to resolution 1540 (2004)

Letter dated 27 February 2008 from the Permanent Representative of Madagascar to the United Nations addressed to the Chairman of the Committee

I should like to acknowledge receipt of your letter of 2 November 2007 concerning Madagascar's implementation of resolution 1540 (2004).

In this connection, I am transmitting herewith the report prepared by Madagascar pursuant to Security Council resolution 1540 (2004) (see annex).

Annexed hereto are the following texts*:

- Extract from the Constitution of Madagascar (2006 revision): article 132 under title IV concerning treaties and international agreements
- Extract from Law No. 2006-016 of 31 August 2006 on the implementation and application of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction
- Extract from Law No. 60-011 of 22 July 1969 on the regulations governing armaments other than edged weapons
- Extract from Law No. 2003-008 of 5 September 2003 amending and supplementing certain provisions of Law No. 95-023 of 6 September 1995 setting out the regulations for teachers and researchers in higher education and scientific research
- A request for assistance from the Government of Madagascar

I should like to point out that the implementation of resolution 1540 (2004) has been incorporated into Madagascar's national policy through the implementation of the Madagascar Action Plan, particularly commitment 1, with the adoption of a national plan for the prevention and suppression of insecurity and breaches of public order.

* The texts mentioned may be consulted in the archives of the Secretariat.

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I should also like to mention that Madagascar's matrix will not be posted on the website of the Committee established pursuant to resolution 1540 (2004).

(*Signed*) Zina **Andrianarivelo-Razafy**
Ambassador
Permanent Representative

Annex to the letter dated 27 February 2008 from the Permanent Representative of Madagascar to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004)

Report prepared by Madagascar pursuant to Security Council resolution 1540 (2004)

Subject: Report on the implementation of resolution 1540 (2004) concerning counter-terrorism

I. Introduction

Acts of terrorism undermine stability throughout the world. As one of the most serious contemporary threats to both national and international peace and security, terrorism is a phenomenon that must be eliminated.

In this connection, Madagascar is committed to contributing actively to the efforts of the United Nations and the international community to promote peace and eradicate the scourge of terrorism.

Madagascar remains convinced that the Millennium Development Goals cannot be achieved without peace and security.

The implementation of resolution 1540 (2004) is a key element of the strategy for combating terrorism and its contributing factors, since the proliferation of chemical, biological and nuclear weapons represents a major threat to humanity.

II. General provisions

Madagascar possesses no weapons of mass destruction, whether chemical, biological or nuclear, and has no plans to acquire them.

Madagascar is committed to disarmament and to the non-proliferation of weapons of mass destruction, and attaches great importance to the non-proliferation of such weapons to non-State actors.

III. Specific provisions

The Constitution of Madagascar contains no specific provisions on nuclear materials, biological weapons, testing or prohibition, but the preamble refers to the content of the Charter of the United Nations, the International Bill of Human Rights and the African Charter on Human and Peoples' Rights with regard to these subjects.

With respect to nuclear and biological research, the extract from Law No. 95-023 of 6 September 1995 setting out the regulations for teachers and researchers in higher education, in its title II on the rights and duties of teachers and researchers in higher education, provides, in article 4, that teachers and researchers in higher education have the obligations of full-time employment, punctuality,

diligence, honesty and respect for ethics and for university and research codes of practice.

The relevant legislation provides for criminal penalties.

With respect to chemical weapons, Madagascar has adopted Law No. 2006-016 of 31 August 2006 on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction.

This law provides, in title 2 (General prohibitions and prohibitions concerning chemicals), title 3 (Control of activities and trade involving certain chemicals, and national and international inspection to verify compliance with applicable regulations), title 4 (Criminal penalties for the offences referred to in the present law) and title 5 (Miscellaneous provisions, including the establishment of the national authority responsible for the application and implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, ratified by Madagascar on 20 October 2004). The national authority was established in 2007 to strengthen arms control and inspection.

Madagascar contributes to the enhancement of not only national and international security, but also its economic and technological development. Accordingly, it has ratified and acceded to a number of conventions on chemical, biological and nuclear weapons, namely:

- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (ratified on 20 October 2004)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction (ratified on 16 September 1999)
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, together with its six protocols (ratified on 19 December 2007)
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (ratified on 19 December 2007)
- 1979 Convention on the Physical Protection of Nuclear Material (ratified on 28 October 2003)
- Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf
- Treaty of Pelindaba

Under article 132.5 of the revised Constitution of December 2006, in title IV on treaties and international agreements, "Treaties or agreements that are duly ratified or adopted shall have, as from their publication, an authority higher than that of laws, subject, for each agreement or treaty, to its implementation by the other party".

To demonstrate its solidarity with the international community in combating terrorism, Madagascar has ratified 12 of the 13 conventions on this subject and has signed the thirteenth:

- International Convention for the Suppression of Terrorist Bombings (ratified by Madagascar on 24 September 2003)
- International Convention for the Suppression of the Financing of Terrorism (ratified by Madagascar on 24 September 2003)
- 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection (ratified by Madagascar on 23 December 2003)
- 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (ratified by Madagascar on 24 September 2003)
- 1979 International Convention against the Taking of Hostages (ratified by Madagascar on 24 September 2003)
- 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (ratified by Madagascar on 24 September 2003)
- 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (ratified by Madagascar on 18 November 1986)
- 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft (ratified by Madagascar on 18 November 1986)
- 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft (ratified by Madagascar on 2 December 1969)
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (ratified by Madagascar on 30 March 1998)
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (ratified by Madagascar on 30 March 1998)
- International Convention for the Suppression of Acts of Nuclear Terrorism (signed by Madagascar on 9 February 2005)

Madagascar endorsed the Rabat Declaration on nuclear terrorism in May 2007 and ratified the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, concluded at Rome on 10 March 1988.

Madagascar's policy on security matters

The national programme document Madagascar Action Plan (MAP) sets out a strategy that is comprehensive enough to adapt to the implementation of resolution 1540 (2004). In accordance with this document, the country's actions are taken in a national and regional context and are aimed at aligning the duties of security forces according to needs, as well as resources, and strengthening the coast guard, customs bureaux and security forces to control the borders.

Counter-terrorism is among the responsibilities of the security forces. Pursuant to Security Council resolution 1373 (2001), a Central Counter-Terrorism Service operates within the police force (Ministry of the Interior and Public Security), and the Central Intelligence Service within the Office of the President of the Republic has set up a dedicated counter-terrorism unit in accordance with the Memorandum of Understanding on the Regional Counter-Terrorism Strategy of the East African Countries, signed in Kenya on 6 August 2004.

Future actions

Following the meeting organized by the United Nations Office for Disarmament Affairs on 27 and 28 November 2007 in Gaborone, Botswana, the Ministry of Defence plans to get involved in this activity, restructuring and reorganizing itself in complementarity with existing structures.

Other departments responsible for matters such as customs, transport and immigration will also, in the near future, begin participating in the implementation of resolution 1540 (2004) and counter-terrorism efforts in general.

Assistance

Given the precariousness of its financial resources, Madagascar has formulated a request for assistance in a number of areas concerning training, equipment and activities for the implementation of resolution 1540 (2004).

Legislation

For the purpose of implementing the 12 international counter-terrorism conventions and the conventions concerning nuclear, biological, chemical and certain conventional weapons, Madagascar has set up a national authority with responsibility for arms control and inspection. A plan of action and proposed additional measures are envisaged. The National Assembly will consider draft counter-terrorism legislation at its next session.

The relevant texts are currently being finalized with the assistance of experts from the United Nations Office on Drugs and Crime; to that end, a workshop was held in Antananarivo from 21 to 24 January 2008 and videoconferences were held in February 2008.

Future actions

The aim is to bring together in a single text all provisions concerning counter-terrorism, in the broadest possible sense, and to set out the specific duties of each technical department in regulatory provisions.

Assistance

In some areas, such as maritime security, port and airport security, immigration visa security and world trade security, Madagascar has not yet implemented international standards owing to a variety of obstacles which its resources have been insufficient to overcome. Assistance is therefore requested.

The aim is to implement the provisions of resolution 1540 (2004) and of counter-terrorism conventions while adapting effectively to new contexts.

Implementation structure

Madagascar currently has a law on the prohibition of chemical weapons and related materials. This law provides for criminal penalties and for the establishment of a national authority. Such an authority was established in 2006/07, but does not yet have logistical resources.

Other than the Antananarivo-Ivato Airport and the Port of Toamasina, Madagascar's international airports and ports do not have a sufficient level of security in terms of counter-terrorism.

Also under consideration is the possibility of broadening the competence of the national authority on chemical weapons to cover other weapons as well so as to facilitate arms management at the national level, while taking into account specific considerations at the purely technical level, as national needs are a major factor in support of the request for resources.

IV. Conclusion

While Madagascar is convinced of the need for counter-terrorism, it is having some difficulty in implementing the resolutions and has requested assistance.

Counter-terrorism efforts, including those in relation to resolution 1540 (2004), must be deployed at both the international and national levels.

As the foregoing indicates, Madagascar is exceptionally willing to make strides in implementing resolution 1540 (2004) and in combating terrorism in general, but its resources are very limited. The implementation structures put in place are not yet ready.

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29 March 2010

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Security Council Committee established pursuant to resolution 1540 (2004)

Letter dated 28 March 2008 from the Charge d'affaires a. i. of the Permanent Mission of Barbados to the United Nations addressed to the Chairman of the Committee

I have the honour to refer to the letter dated 2 November 2007 from the Chairman of the Committee, regarding the submission of the report of Barbados, pursuant to Security Council resolution 1540 (2004).

In this regard, I have the honour to transmit herewith the report on behalf of the Government of Barbados (see annex). I wish to reiterate the commitment of the Government of Barbados to the international fight against terrorism and its full support for the work of the Committee.

(Signed) Gayle **Francis-Vaughan**
Charge d'affaires a.i.

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S/AC.44/2008/6

Annex to the letter dated 28 March 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Barbados to the United Nations addressed to the Chairman of the Committee

Report of Barbados pursuant to the operative paragraphs of Security Council resolution 1540 (2004) on preventing the acquisition, development, use and illicit trafficking of nuclear, chemical and biological weapons by non-State actors

States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire ... or use nuclear, chemical or biological weapons and their means of delivery

1. The Government of Barbados does not support the proliferation of nuclear, chemical or biological weapons. Barbados has always been and continues to be very vocal in the international arena with regard to condemning the use and proliferation of weapons of mass destruction. The Government of Barbados does not possess nuclear, chemical or biological weapons or technology in relation thereto. Barbados does not support any actor, State and non-State alike, in the use or proliferation of such weapons, nor does it intend to lend any such support or to change its stated position in respect of weapons of mass destruction. Barbados recently reinforced its opposition to the proliferation of weapons of mass destruction by becoming a party to the Chemical Weapons Convention and the Comprehensive Nuclear Test-Ban Treaty. Barbados is now in the process of implementing the provisions of these treaties.

All States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor from manufacturing, acquiring ... or using nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes as well as attempts to engage in ... activities, participate in them as an accomplice, assist or finance them

2. The Anti-terrorism Act, Cap. 158 prohibits and penalizes acts of terrorism, as defined by the Act, as well as the financing of terrorist acts. The Act also provides for the freezing of assets of persons or entities suspected of funding terrorism. The Act may be applied to assets held and acts committed outside of Barbados. It states in Section 3 (1) (a) that a person in or out of Barbados who carries out an act that constitutes an offence under or defined in any of the treaties in the Second Schedule to the Act is guilty of the offence of terrorism and liable upon indictment and conviction to the highest penalties for murder and manslaughter. The Second Schedule to the Act includes the Convention on the Physical Protection of Nuclear Material, 1980 and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988. The former describes offences prohibiting the activities in question. The latter prohibits and penalizes the commission of offences on ships and its provisions are part of domestic law by virtue of the Convention's incorporation into the Shipping Act, Cap. 296. The offences prohibited by this Convention include:

(a) Seizing control of a ship by force or by threat thereof;

(b) Destroying or causing damage to the ship thereby endangering its safe navigation;

(c) Placing or causing to be placed upon a ship any device or substance that would damage or destroy the ship so as to endanger its safe navigation.

3. The Money-laundering and Financing of Terrorism (Prevention and Control) Act, Cap. 129, deals specifically with the financing of terrorism. Its provisions include the establishment of mechanisms for preventing incidents of money-laundering, for detecting and investigating suspected cases of money-laundering and for freezing the assets of suspected money-launderers and financiers of terrorism.

4. Other legislation exists, which does not directly address the issue of terrorism or of non-State actors using weapons of mass destruction to commit terrorist acts, but which could be applied in commensurate circumstances. The Offences Against the Person Act, Cap. 42, prohibits and penalizes:

(a) Murder and manslaughter;

(b) Causing bodily harm;

(c) Causing danger to life, namely, by unlawfully and maliciously or recklessly engaging in conduct which places, or may place, another person in danger of death or serious bodily harm;

(d) Placing explosives near a building or ship with intent to do bodily harm;

(e) Possessing or making dangerous things to commit offences, namely, by knowingly possessing or making or manufacturing any gunpowder, explosive substance or any dangerous or noxious thing, or any machine, engine, instrument or thing, with intent by means thereof to commit or for the purpose of enabling any other person to commit any offence against the Act;

(f) Assault.

This Act also penalizes attempts to commit the above-listed offences (where applicable) and acts that aid and abet their commission.

5. The Proceeds of Crime Act, Cap. 143, prohibits and prevents the proceeds of and benefits derived, directly or indirectly, from the commission of offences listed in the schedule to the Act from being reaped or retained by persons. The Act also provides for the forfeiture and confiscation of property derived, obtained or realized as a result of the commission of any of the scheduled offences. The offences listed in the schedule include "terrorism offences under sections 3 or 4 of the Anti-terrorism Act".

6. The Foreign Incursions and Mercenaries Act, Cap. 174, prohibits anyone with "any measure of allegiance" to Barbados from engaging in insurrection in other countries and from recruiting mercenaries in Barbados. The Mercenaries (Convention) Act 174A incorporates the International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989.

All States shall ... develop and maintain appropriate effective measures to account for and secure such items in ... use, storage or transport

7. Barbados acceded to the Chemical Weapons Convention in March 2007 and is in the process of improving mechanisms for accounting for and securing chemical substances that are in use, in storage and transported in Barbados. There is a need in this area for specific legislation and capacity-building. In the meantime, the Explosives Act, Cap. 162, which regulates handling of explosives, provides that the Minister may by order prohibit absolutely, or subject to conditions or restrictions, the manufacture, keeping/storage, importation, conveyance and/or sale of any explosive that is of so dangerous a character that it is expedient for public safety to make such an order. The Act defines explosives as including blasting powder, gun-cotton, dynamite, nitro-glycerine and all other explosive matter whatsoever. The Act also provides for the storage of explosives; however, these provisions may not be practicably applicable since in 1985, when the Act was passed, the storage of nuclear, chemical and biological material would not have been within the contemplation of the drafters.

8. The Miscellaneous Controls Act also provides some opportunity for accounting for certain materials entering Barbados (see para. 12 below).

All States shall ... develop and maintain appropriate effective physical protection measures

9. Barbados would be interested in exploring the possibilities for receiving information and assistance in this area.

All States shall ... develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation ... illicit trafficking and brokering in such items in accordance with ... national legal authorities ... consistent with international law

10. Agencies with responsibility in different respects for intercepting illegal activity at the borders are the Barbados Coast Guard, the Royal Barbados Police Force, the Customs and Excise Department, the Immigration Department, and the Barbados Defence Force. There are also regional mechanisms in place and further mechanisms currently being processed and implemented. The Regional Security System is one agency and the countries of the Caribbean Community (CARICOM) are presently negotiating regional security cooperation treaties, including a maritime and airspace security cooperation agreement. The draft maritime and airspace security cooperation agreement (the draft agreement) provides for, inter alia, routine security patrols by the appropriate forces of one State party of the air and maritime space of another with requisite notice and subject to prescribed conditions. The draft agreement provides further for the interception by a State party of a suspected vessel seaward of the waters of another State party subject to gaining the requisite permissions and authorizations of the competent authority of the other State party upon said interception.

11. The issue of resources (financial and human) can significantly affect the robustness and frequency of border patrols. The Coast Guard has recently acquired advanced equipment to assist in detecting and preventing illicit trafficking in

narcotic drugs and in weapons, and this acquisition will greatly facilitate the frequency of interception.

All States shall ... establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

12. The Customs Act, Cap. 66, and its subsidiary legislation regulate imports and exports into and from Barbados and establish a number of rules and mechanisms for the entry and exit of contraband. The Customs Act also prescribes rules regarding licensing for the import and export of certain items. The Miscellaneous Controls Act, Cap. 329, also contains provisions requiring the acquisition of licenses for the importation and/or exportation of certain substances or "goods" listed in the schedule thereto. These scheduled classifications include chemical substances and nuclear material. New substances can be included under the schedule by following the appropriate channels, and this is done, inter alia, in respect of hazardous chemical substances.

13. The Customs Department has recently acquired advanced x-ray equipment for scanning incoming containers. The Government of Barbados recognizes the importance of strict and rigid controls in this aspect of the implementation of Security Council resolution 1540 (2004) and would be interested to explore any opportunities for assistance in training and capacity-building. This notwithstanding, it must be noted that the Customs and Immigration Departments and the civil aviation authorities take part on a regular basis in seminars and workshops, some of which are coordinated by the United States Government, for the improvement of border controls and the training of customs, immigration and civil aviation officers on securing the airport and other ports of entry against threats of terrorism.

Assistance needs

14. In the light of the above, the Government of Barbados foresees that assistance may be needed in some areas. The general areas identified include:

(a) Drafting of legislation;

(b) Mechanisms for accounting for and securing nuclear, chemical and biological material in use, storage or transport;

(c) Appropriate physical protection measures;

(d) Strengthening of controls on all borders regarding imports, exports and re-exports;

(e) Training of security forces in handling nuclear, chemical and biological material or in performing duties in the vicinity of such potentially hazardous substances.

The Government of Barbados intends to shortly hereafter commission an in-depth assessment of Barbados' specific assistance and capacity-building needs to be submitted to the Committee at a later date.

Conclusion

15. Barbados is a non-nuclear, non-chemical, non-biological weapon State and does not intend to alter this. Barbados firmly opposes, as it always has and will continue to do, the proliferation of such weapons. Barbados is also a small island developing State with limited resources at its disposal, and consequently the process of implementation of Security Council resolution 1540 (2004) is relatively slow. Nonetheless, Barbados possesses laws that can apply to the punishment of terrorists either directly or by means of extradition to certain countries where trial and judgement may take place. Barbados does require some assistance in the areas of capacity-building and in strengthening systems and mechanisms for monitoring and preventing incidents from occurring as well as in accessing greater resources for timely drafting of the necessary legislation. Barbados' participation in major disarmament treaties may also provide opportunities for assistance in the identified areas. Barbados is currently party to, inter alia, the Non-Proliferation Treaty, the Biological Weapons Convention, the Chemical Weapons Convention, and the Comprehensive Nuclear-Test-Ban Treaty.